

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:

Shigeru ATSUMI

Serial No. 09/028,276

Filed: February 24, 1998

For: SEMICONDUCTOR INTEGRATED CIRCUIT
DEVICE AND FLASH EEPROMFILED BY FAX (703) 308-7952
TO BOARD

Examiner: Jesse A. Fenty

Group Art Unit: 2815

Atty Dkt No. 1701.73982

#24
Reply
Brief
J. Manilla
11/26/02

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REPLY BRIEF

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This Reply Brief is filed in conjunction with a Petition under 37 CFR § 1.181 and/or § 1.183.

Appellant requests entry of the Reply Brief as set forth in the Petition in response to the Examiner's

Answer mailed January 4, 2001.

1) GROUPING OF CLAIMS

Contrary to the Grouping of Claims alleged by in numbered paragraph 7 on page 2 of the Examiner's Answer, Appellant reasserts that claims 1-9, 13, 14 and 21-42 be considered in the four groups defined on page 8 in the Appeal Brief filed October 17, 2000. Specifically, appellant requests that the following groups of separately patentable claims be recognized:

GROUP I -- Independent claims 1, 21 and 32 and claims 4, 24 and 35;

GROUP II -- Claims 2, 3, 5, 6, 22, 23, 25, 26, 33, 34, 36 and 37;

GROUP III -- Claims 7, 8, 27, 28, 38 and 39; and

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GROUP IV -- Claims 9, 13, 14, 29-31 and 40-42.

In accordance with 37 C.F.R. §1.192(c)(7) - (8), appellant provided separate arguments for patentability for Groups I-IV in Section VIII of the Appeal Brief, pages 8-18.

2) **ARGUMENT**

Appellant continues to maintain, contrary to the assertions in the Examiner's Answer, that Shimizu (U.S. Patent No. 4,471,373) neither anticipates nor renders obvious any of the claims in Groups I-IV.

While appellant believes that the claims of Groups I-IV are separately patentable, should Group I be deemed to be patentable then Groups II-IV will, by operation of law, be patentable as well. See 35 U.S.C. § 112, ¶4. That is, independent claims 1, 21 and 32 are in Group I, and the remaining claims in Groups II-IV depend from one of claims 1, 21 and 32.

In the Appeal Brief on page 11 (first full paragraph), appellant argues that:

According to FIG. 18 and the corresponding description at column 6, line 66 to column 7, line 10 of Shimizu, the transistor QE2 is used for the writing operation, and is connected with an aluminum interconnection layer 31. **However, the specification is devoid of a teaching as to how the transistor QE2 or the interconnection layer 31 is connected to the input/output terminal 5 directly or otherwise.** Consequently, Shimizu lacks a teaching or suggestion that the transistor QE2 is *physically connected directly* to the input/output terminal 5, as called for in claim 1, and that the transistor QE2 is connected directly to the input/output terminal 5, *absent any intervening elements*, as called for in claim 21. [Emphasis original].

To rebut appellant's contention, the Examiner's Answer, at page 5, lines 7-11 purports that: "what the appellant interprets as an aluminum wire connecting the input/output pad with the gate of the transistor, is actually the patterned gate itself. Thus, the transistor is demonstrated to be

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'physically connected directly' to the input/output terminal (5) and 'absent any intervening elements.'" Appellant firmly disagrees with this position and indeed, believe that it is illogical to prove that the transistor QE2 is physically connected directly to the input/output terminal 5. Even assuming that the aluminum (interconnection layer 31) is the patterned gate itself per the Examiner's Answer, that does not provide a teaching or suggestion that the transistor QE2 is physically connected directly to input/output terminal 5 as called for in claim 1. Nor does such an assumption support a position that Shimizu teaches or suggests that the transistor QE2 is connected directly to the input/output terminal, absent any intervening elements as called for in claim 21 or always connected directly to the input/output terminal as called for in claim 32.

3 CONCLUSION

For the foregoing reasons and the reasons set forth in the Appeal Brief, the final rejection of claims 1, 2 and 21-26 under 35 U.S.C. § 102 (b); the rejections of claims 3-9, 13, 14, and 27-42 under 35 U.S.C. § 103 (a) are improper and should be reversed.

Respectfully submitted,

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